

Service Date: January 10, 2006

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF MONTANA-DAKOTA)	UTILITY DIVISION
UTILITIES CO., Application for Annual Review)	
of Monthly Gas Cost Tracking Adjustment)	DOCKET NO. D2003.4.49
Procedure and Final Approval of Interim Rates)	
Resulting from that Procedure)	ORDER NO. 6691a

IN THE MATTER OF MONTANA-DAKOTA)	UTILITY DIVISION
UTILITIES CO., Application for Annual Review)	
of Monthly Gas Cost Tracking Adjustment)	DOCKET NO. D2004.4.55
Procedure and Final Approval of Interim Rates)	
Resulting from that Procedure)	ORDER NO. 6691a

IN THE MATTER OF MONTANA-DAKOTA)	UTILITY DIVISION
UTILITIES CO., Application for Annual Review)	
of Monthly Gas Cost Tracking Adjustment)	DOCKET NO. D2004.5.69
Procedure and Final Approval of Interim Rates)	
Resulting from that Procedure)	ORDER NO. 6691a

PROTECTIVE ORDER

On December 16, 2005, Montana-Dakota Utilities Co. (MDU) filed before the Public Service Commission (PSC) a renewed motion for protective order to govern certain information expected to be filed in the above-entitled dockets. The renewed motion, combined with MDU's initial November 4, 2005, motion is proper in form and includes the elements required in a motion for protective order before the PSC.

MDU states that it has done a thorough legal and factual examination and has determined the specific items or categories of like items identified are trade secrets or otherwise legally protectible. *ARM 38.2.5007(2)*. MDU states that it has considered that the PSC is a public

agency and that there is a presumption of access to documents and information in the PSC's possession. *ARM 38.2.5007(4)(b)(i)*. MDU states that it understands it has the burden of demonstrating that the identified items are confidential information and that it must, within its motion, establish a prima facie showing of confidentiality, factually and legally, and make clear the basis for the claim of confidentiality. *ARM 38.2.5007(3)*. MDU names a contact person regarding the motion and regarding the items to be protected. *ARM 38.2.5007(3)(a)*. MDU has included a complete and specific non-confidential identification of the items or categories of items for which it seeks protection. *ARM 38.2.5007(3)(b)*. For each item or category of like items MDU has supplied what it believes is a complete and specific factual basis, including thorough identification and explanation of specific facts, and a complete and specific legal basis and application of the law to facts. *ARM 38.2.5007(3)(c)*. MDU has included an affidavit that MDU suggests supports the facts, is by a person qualified on the subject matter, and supports the claim of confidentiality of the identified information. *ARM 38.2.5007(3)(c)*. MDU states it has explained, in detail, for each item or category of like items, including thorough facts and legal analysis as it relates in general and in specific, proper application of the element of trade secret. *ARM 38.2.5007(3)(d)*. MDU's motion has been noticed in accordance with *ARM 38.2.5007(8)*.

MDU requests protection of the details of MDU's natural gas purchase contracts and MDU negotiations for natural gas purchase contracts. The PSC determines that MDU has shown good and sufficient cause in fact and law that the information for which protection is requested is entitled to protection from uncontrolled disclosure, pursuant to § 69-3-105, MCA (PSC authority to issue protective orders). In accordance with § 30-14-402, MCA (statutory definition of trade secret), PSC rule *ARM 38.2.5007(4)(b)* identifies the elements of trade secret as: (a) the items or categories identified are information; (b) the information is in fact secret; (c) the information is subject to efforts reasonable under the circumstances to maintain its secrecy; (d) the information is not readily ascertainable by proper means; and (e) the information derives independent economic value from its secrecy or a competitive advantage is derived from its secrecy. MDU has made the

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required demonstration that these elements exist for the information for which MDU requests protection. The PSC grants MDU's request for protection of the identified information as trade secret and hereby orders that information submitted in accordance with this order be treated as "confidential information" under the terms of this order and PSC protective order rules, ARM 38.2.5001 through 38.2.5030.

Done and dated this 20th day of December, 2005, by a vote of 5-0.

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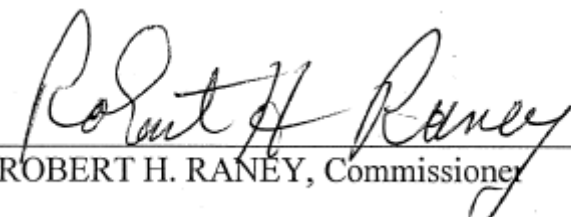
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BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

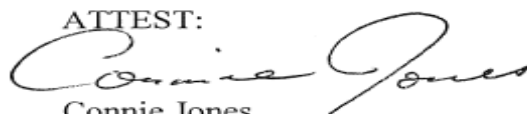

GREG JERGESON, Chairman


BRAD MOLNAR, Vice Chairman


DOUG MOOD, Commissioner


ROBERT H. RANEY, Commissioner


THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Connie Jones
Commission Secretary

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(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.

Montana Public Service Commission
Protective Orders and Protection of Confidential Information

Nondisclosure Agreement

(7-26-00)

ARM 38.2.5012

Docket No., D2003.4.49 Order No. 6691a
Order Action Date: January 9, 2006

I understand that in my capacity as counsel or expert witness for a party to this proceeding before the commission, or as a person otherwise lawfully so entitled, I may be called upon to access, review, and analyze information which is protected as confidential information. I have reviewed ARM 38.2.5001 through 38.2.5030 (commission rules applicable to protection of confidential information) and protective orders governing the protected information that I am entitled to receive. I fully understand, and agree to comply with and be bound by, the terms and conditions thereof. I will neither use nor disclose confidential information except for lawful purposes in accordance with the governing protective order and ARM 38.2.5001 through 38.2.5030 so long as such information remains protected.

I understand that this nondisclosure agreement may be copied and distributed to any person having an interest in it and that it may be retained at the offices of the provider, commission, consumer counsel, any party and may be further and freely distributed.

Typed or Printed Name

Signature

Date of Signature

Business Address:

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Employer

Party Represented